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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/686,915	10/16/2003	Roger N. Chauza	CHAU-0101US	7480

31782 7590 03/31/2005

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EXAMINER

MCMAHON, MARGUERITE J

ART UNIT	PAPER NUMBER
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3747

DATE MAILED: 03/31/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

8W

Office Action Summary	Application No. 10/686,915	Applicant(s) CHAUZA ET AL.	
	Examiner Marguerite J. McMahon	Art Unit 3747	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-15 and 21-25 is/are pending in the application.
 4a) Of the above claim(s) 7 and 12 is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-6 and 13-23 is/are rejected.
- 7) ☒ Claim(s) 8-11, 24 and 25 is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____. |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>7/28/04</u> . | 6) <input type="checkbox"/> Other: ____. |

DETAILED ACTION

Election/Restrictions

Claims 7 and 12 are withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected Species, there being no allowable generic or linking claim. Election was made **without** traverse in the reply filed on 1/21/05.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-3 and 15 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by Pacheco (4,932,628). Note a mobile carrier 20 comprising a wheeled trailer, used as a portable engine test stand, including a visual display panel 80 with multiple displays 82, which measure various aspects of the engine to test its level of functioning. The engine test monitoring devices is used to support and monitor the performance of a running engine, which could be either a new or rebuilt engine. Note that the use of the term “aftermarket apparatus” is broad enough to read on a rebuilt engine. The device includes a toggle switch 84 for starting and stopping the engine.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and

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the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 4, 5, 13, 14, and 21-23 are rejected under 35 U.S.C. 103(a) as being unpatentable over Pacheco (4,932,628). Pacheco shows everything except specifically employing visual displays, which show the flow rate of fuel to the engine and a parameter related to a pollutant emitted by the engine, a catalytic converter and a load that are switchable into and out of operation, and employing a programmed processor. Note that it is conventional to measure the flow rate of fuel to the engine, and to monitor the exhaust for pollutant levels. It would have been obvious to one having ordinary skill in the art to include these indicators, in order to further test engine efficiency. Similarly, it would have been obvious to include a test for the efficiency of a catalytic converter, which is a conventional engine element, and to test the load, which is a conventional dynamometer, well known in the engine testing art. In addition, it would have been obvious to provide a programmed processor to perform the functions of the unit, such as switching the device in and out of operation, and monitoring and storing engine performance parameters, since it has been held that broadly providing a mechanical or automatic means to replace manual activity which has accomplished the same result involves only routine skill in the art. *In re Venner*, 120 USPQ 192.

Claim 6 is rejected under 35 U.S.C. 103(a) as being unpatentable over Pacheco (4,932,628) in view of Adam et al (5,637,226). Pacheco shows everything except utilizing a magnet to influence the molecules of fuel as the aftermarket device. Adam et al teach that it is old in the art to employ magnets to influence the molecules of fuel, and to test the efficiency of the engine with and without the magnets (see column 4, lines 6-

16). It would have been obvious to one of ordinary skill in the art to modify Pacheco, by providing an engine with a magnetic fuel treatment component, and testing the efficiency of that component.

Allowable Subject Matter

Claims 8-11, 24, and 25 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Note the magnetic treatment device and testing thereof of Janczak et al (5,124,045), the mobile dynamometer of Sondey (6,253,600), and the mobile engine test stand of Swartzlander et al (5,851,007).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Marguerite J. McMahon whose telephone number is 703-308-1956. The examiner can normally be reached on flex.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Yuen Henry can be reached on 703-308-1946. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



MARGUERITE MCMAHON
PRIMARY EXAMINER